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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931.069	08/15/2001	Eric S. Gilbert	818003 (50239-00002)	2887

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EXAMINER

POPHAM, JEFFREY D

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/931,069

Applicant(s)

GILBERT ET AL.

Examiner

Jeffrey D. Popham

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:
Applicant argues that Morar does not teach a method that includes encoding followed by encrypting. Column 4, lines 47-56 of Morar reads "Obscuring: After classification one or more obscuring algorithms are applied to the contents of one or more of the privacy classes in order to partially or completely obscure the contents of the privacy class. Partially obscured information retains some of the characteristics of the original information while substantially removing the private aspects of the information. Obscuring algorithms can employ a variety of techniques that include, but are not limited to, removal, replacement, encryption, translation, modification and structured substitution for the private information." From here it is clearly seen that Morar's obscuring step includes one or more of the obscuring algorithms recited above. While it is true that Morar teaches that one form of encryption can be to "replace the private information with an encrypted form of the private information", there are other ways that encryption is used within Morar. One being Column 9, lines 54-61, teaching that the data is filtered (via the obscuring techniques described above), and subsequently encrypted. In reference to Column 4, lines 47-56, both encryption and another obscuring technique can be used. If structured substitution or replacement, for example, were chosen to be used with encryption, encryption would inherently be used as the latter technique, since encrypting an item that is going to be replaced is meaningless.

Applicant also argues that Halamka does not "link" any de-identification records. The data sources section of page 1 was cited to show that linking is performed on a server computer. Page 2 teaches that de-identified records will be linked via a code, such that the system can analyze such information as the number of unique patients and the number of visits per patient. Zubeldia teaches linking of de-identified records via a code, but does not explicitly teach that this linking is done in a server computer.

Applicant also argues that Garvin does not teach any particular method of probabilistic matching. However, Garvin teaches that the probabilistic matching is used in order to handle issues such as duplicated records, field format differences, and different hospital codes (slide 17), and that it will allow users to specify levels of variability in the matching of records, such as count differences, time, and date (slide 9). Slide 7, as was used in rejection, teaches probabilistic matching that will easily handle data entry errors, time/date data, etc. It is clear from this that Garvin's probabilistic matching allows for the system to link records that have the above mentioned errors, as well as others specified in Garvin. It is additionally noted that Zubeldia teaches a form of probabilistic matching as shown by Figure 3 and the pertinent portions of the specification, in that "the record 52 relates to the same patient, but is derived from a different data source (e.g. pharmacy vs. hospital), which uses a different healthcare identifier (e.g. pharmacy PBM card identifier vs. medical identifier)." Since the system is able to probabilistically determine that these records belong to the same person, the same code is given to each for the purposes of linking. Zubeldia does not, however, call this probabilistic matching. Garvin is used for this, and to show how other errors, inconsistencies, etc. can be handled using such a procedure.